

Internal Revenue Service
P. O. Box 2508
Cincinnati, OH 45201

Department of the Treasury

Date: October 13, 2016

Employer Identification Number:

Number: 201701023
Release Date: 1/6/2017

Person to Contact - ID#:

Contact Telephone Numbers:

UIL: 501.03-07

LEGEND:

B = Foundation Name
C = State
x dollars = Amount

Dear :

We have considered your October 23, 2015 request for recognition of an unusual grant under Treasury Regulations section 1.170A-9(f)(6)(ii) and related provisions.

Based on the information provided, we have concluded that the proposed grant constitutes an unusual grant under section 1.170A-9(f)(6)(ii) and related provisions of the regulations. The basis for our conclusion is set forth below.

Facts:

You are a public charity described in Internal Revenue Code Sections 509(a)(1) and 170(b)(1)(A)(vi). Your mission is to enhance and support the work of law enforcement officers across the country through educational, direct assistance, and community outreach programs.

You were recently formed in C and have only just begun to attract support from public sources in and out of your local community. You have been actively engaged in seeking sources of funding in order to implement your charitable programs. B was informed about your mission through a mutual acquaintance and shares your interests in education and national security. As a result, you were invited to apply for a grant from B. B has no prior affiliation with you, did not create you, and has no one in a position of authority within you or on your Board of Directors.

You subsequently submitted a grant application to B for x dollars for a pilot program designed to measure and remedy local police perception through media, community involvement and training. You were awarded the grant which will be in the form of cash, or equivalent, to be used for community, education, and media outreach, police recognition awards, and scholarships to attend police academies. B has not imposed any conditions or restrictions on you other than your application for and continued existence as a Section 501(c)(3) exempt public charity and the use of grant funds for the purposes set forth in your grant application. Any unused grant funds must be returned by a certain date unless you request an extension of time from B.

You expect to attract significant and broad public support because your Board of Directors includes two veteran law enforcement officers with extensive experience and networks of

contacts in the law enforcement community, an experienced business executive with strong ties to business, religious, and political communities that has public sector senior management experience, and a founder/executive director of a separate public charity that combats global poverty. In addition, you plan to establish a website to publicize your programs as well as accept contributions. You also intend to apply for grants from government agencies, public charities, and private foundations. Furthermore, public outreach and educational initiatives will be a significant portion of your charitable activities.

None of your directors or officers is a trustee, director, agent, or employee of B nor does B exert any control, direct or indirect, over you.

You have not previously applied for nor received any grants from B.

Due to its size, the grant will adversely affect your status as normally being publicly supported under Section 170(b)(1)(A)(vi) for the applicable period.

Law:

Treasury Regulations sections 1.170A-9(f)(6)(ii) and 1.509(a)-3(c)(4) set forth the criteria for an unusual grant.

Treasury Regulations section 1.170A-9(f)(6)(ii) states that, for purposes of applying the 2-percent limitation to determine whether the 33 1/3 percent-of-support test is satisfied, one or more contributions may be excluded from both the numerator and the denominator of the applicable percent-of-support fraction. The exclusion is generally intended to apply to substantial contributions or bequests from disinterested parties which:

- are attracted by reason of the publicly supported nature of the organization;
- are unusual or unexpected with respect to the amount thereof; and
- would, by reason of their size, adversely affect the status of the organization as normally being publicly supported.

Treasury Regulations section 1.509(a)-3(c)(4) states that all pertinent facts and circumstances will be taken into consideration to determine whether a particular contribution may be excluded. No single factor will necessarily be determinative. Such factors may include:

- Whether the contribution was made by a person who
 - a. created the organization
 - b. previously contributed a substantial part of its support or endowment
 - c. stood in a position of authority with respect to the organization, such as a foundation manager within the meaning of section 4946(b)
 - d. directly or indirectly exercised control over the organization, or
 - e. was in a relationship described in Internal Revenue Code section 4946(a)(1)(C) through 4946(a)(1)(G) with someone listed in bullets a, b, c, or d above.

A contribution made by a person described in a.- e. is ordinarily given less favorable consideration than a contribution made by others not described above.

- Whether the contribution was a bequest or an inter vivos transfer. A bequest will ordinarily be given more favorable consideration than an inter vivos transfer.
- Whether the contribution was in the form of cash, readily marketable securities, or assets which further the exempt purposes of the organization, such as a gift of a painting to a museum.
- Whether (except in the case of a new organization) prior to the receipt of the particular contribution, the organization (a) has carried on an actual program of public solicitation and exempt activities and (b) has been able to attract a significant amount of public support.
- Whether the organization may reasonably be expected to attract a significant amount of public support after the particular contribution. Continued reliance on unusual grants to fund an organization's current operating expenses (as opposed to providing new endowment funds) may be evidence that the organization cannot reasonably be expected to attract future public support.
- Whether, prior to the year in which the particular contribution was received, the organization met the one-third support test described in section 1.509(a)-3(a)(2) without the benefit of any exclusions of unusual grants pursuant to section 1.509-3(c)(3);
- Whether the organization has a representative governing body as described in Treasury Regulations section 1.509(a)-3(d)(3)(i); and
- Whether material restrictions or conditions within the meaning of Treasury Regulations section 1.507-2(a)(7) have been imposed by the transferor upon the transferee in connection with such transfer.

Application of Law:

The grant meets the requirements of Treasury Regulations section 1.170A-9(f)(6)(ii) because it is from a disinterested party who was attracted by reason of the publicly supported nature of your organization, is unusual with respect to the amount thereof, and will, by reason of its size, adversely affect your status as normally being publicly supported.

The grant meets the requirements of Treasury Regulations section 1.509(a)-3(c)(4) based on the following pertinent facts and circumstances:

- The contribution was made by B, a disinterested party that:
 - a. Did not create you;
 - b. Has not previously contributed to you;
 - c. Does not stand in a position of authority with respect to you;
 - d. Does not directly or indirectly exercised control over you; and
 - e. Was not in a relationship described in IRC Section 4946(a)(1)(C) through 4946(a)(1)(G) with someone listed in bullets a, b, c, or d above.

- The contribution was also in the form of cash, or equivalent, which furthers your exempt purposes.
- You are a new organization and have been actively engaged in seeking sources of public support and funding in order to implement your charitable programs.
- You reasonably expect to attract a significant amount of public support after the grant.
- You have a representative governing body as described in Treasury Regulations section 1.509(a)-3(d)(3)(i); and
- No material restrictions or conditions within the meaning of Treasury Regulations section 1.507-2(a)(7) have been imposed by the grantor.

For the forgoing reasons, the grant from B is characterized as an unusual grant as the criteria set forth in Treasury Regulations sections 1.170A-9(f)(6)(ii) and 1.509(a)-3(c)(4) have been met.

We have sent a copy of this letter to your representatives as indicated in your power of attorney.

If you have any questions, please contact the person listed in the heading of this letter.

Sincerely,

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings and Agreements